house-owner is the cause. 4 BLACKSTONE'S COMMENTARIES, 226. Any such consideration is wholly inconsistent with the basic theory of the criminal law, that the state is the party plaintiff. *Reg.* v. *Kew*, 12 Cox C. C. 355. And where, with equal carelessness, a door or window was left unlocked, but wholly closed, one who entered was convicted of burglary. *May* v. *State*, 40 Fla. 426, 24 So. 498. Also where the breaking consisted of merely tearing out a twine lattice-work. *Commonwealth* v. *Stephenson*, 8 Pick. (Mass.) 354. Nor is there in fact any invitation held out by such negligence. But see *Timmons* v. *State*, 34 Oh. St. 426, 427. The probable explanation is that an artificial distinction was taken *in favorem vitæ*, at a time when burglary was a capital offense. Logically, widening an opening, not large enough to admit the defendant, by pushing up a window, or sliding back a door, is the forcible removal of an obstacle to entering, and a breaking of a part of the dwelling-house relied on as a security against intrusion. See *Metz* v. *State*, 46 Neb. 547, 553, 65 N. W. 190, 192; *State* v. *Boon*, 13 Ired. 244, 246. There is a growing tendency to follow the view expressed in the principal case. *Claiborne* v. *State*, 113 Tenn. 261, 83 S. W. 352; *State* v. *Sorenson*, 138 N. W. 411 (Ia.).

CARRIERS — PASSENGERS: WHO ARE PASSENGERS — RIDING WITH FRAUDULENT TICKET BEFORE IT HAS BEEN COLLECTED. — The plaintiff obtained a ticket on the defendant railroad at a reduced rate by falsely representing himself to be a commercial traveler. He was injured by the defendant's negligence, before the ticket was taken up by the conductor. *Held*, that he can recover. *Ashbee* v. *Canadian N. Ry. Co.*, 25 West. L. R. 884 (Sask.).

The relation of carrier and passenger is consensual in character, requiring that the parties should mutually assent to its creation. See *Webster* v. *Fitchburg R. Co.*, 161 Mass. 298, 299, 37 N. E. 165, 166. The express assent of the carrier is often evidenced by the collection of a ticket or cash fare from the party presenting himself for transportation. *Illinois C. R. Co.* v. *Treat*, 179 Ill. 576, 54 N. E. 290. But if such assent is obtained by fraud, the wrongdoer cannot make it the foundation of a right of action. *Fitzmaurice* v. *New York, N. H. & H. R. Co.*, 192 Mass. 159, 78 N. E. 418; *Way* v. *Chicago, R. I. & P. R. Co.*, 64 Ia. 48, 19 N. W. 828. The carrier's assent to the creation of the relationship is implied, where the applicant exactly complies with the terms of the general outstanding invitation to the traveling public. *Webster* v. *Fitchburg R. Co.*, *supra*; *St. Louis & S. F. S. R. Co.* v. *Kilpatrick*, 67 Ark. 47, 54 S. W. 971. This invitation is limited to those who intend to become *bonâ fide* passengers. Thus it is generally held not to include travelers trying to steal a ride, even though they may be prepared to pay fare if compelled to. *Wynn* v. *City & S. Ry. Co.*, 91 Ga. 344, 17 S. E. 649; and see *Chicago, R. I. & P. R. Co.* v. *Moran*, 117 Ill. App. 42, 45. Upon similar reasoning it would seem that the invitation was not extended to a traveler such as the plaintiff in the principal case, since he did not intend to pay the proper fare unless his fraud were discovered. It follows that the defendant owed him no duty of due care.

CARRIERS — PERSONAL INJURIES TO PASSENGERS — ASSAULT BY ANOTHER PASSENGER — CONDUCTOR ASKING PASSENGER'S ASSISTANCE. — The plaintiff while a passenger on the defendant's train, went at the request of the conductor to help restrain an intoxicated passenger who had been wandering through the coaches and resisting efforts to keep him from jumping from the train. The conductor left the plaintiff, who was thereafter assaulted by the intoxicated man. *Held*, that the direction of a verdict for the defendant was correct. *Spinks* v. *New Orleans, M. & C. R. Co.*, 63 So. 190 (Miss.).

For a discussion of the principles involved, see NOTES, p. 376.

CONFLICT OF LAWS — SITUS FOR PURPOSE OF GRANTING ADMINISTRATION — STOCK IN CORPORATION. — The testator died domiciled in Bermuda leaving